



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
ATTORNEY GENERAL

DIVISION OF STATE COUNSEL
LITIGATION BUREAU

DIRECT DIAL: (212) 416-8373

November 18, 2019

BY ECF

Hon. Nelson S. Román
United States District Court
Southern District of New York
300 Quarropas Street
White Plains, NY 10601

Re: Nelson v. Lisson, No. 19 Civ. 6437 (NSR)

Dear Judge Román:

The Court grants Defts.' request for it to issue an Order to Show Cause -- which will be separately issued. Defts.' time to respond to the Complaint is extended until Jan. 22, 2020. ~~Clerk of the Court +~~ ~~SO ORDERED: Dated: Nov. 22, 2019~~

~~(doc. 19), mail a copy to Plaintiff and show proof of service.~~

HON. NELSON S. ROMÁN
UNITED STATES DISTRICT JUDGE

This Office represents Laura Miller and Rosanne O'Connor ("Defendants")¹ in the above referenced action. I write to respectfully request that an Order to Show Cause be issued, directing Plaintiff to update his mailing address on the ECF Docket Report and show cause as to why the Court should not dismiss this case for failure to prosecute. Should the Court grant this request, Defendants respectfully ask that their time to respond to the Complaint, currently due on November 18, 2019, be stayed, *sine die*, pending resolution of said Order.

The grounds for this request are that, on August 22, 2019, this Court mailed Plaintiff an Information Package and Order granting IFP status to the address designated by Plaintiff on the Court's docket, Jeffrey A. Nelson, DIN 98-A-4066, Attica Correctional Facility, P.O. Box 149, Attica, New York 14011-0149. ECF Dkt. No. 14, and Dkt. Entry dated August 22, 2019. On September 11, 2019, both of these mailings were returned to the Court marked as "undeliverable as addressed; unable to forward." ECF Dkt. Entries dated September 11, 2019. On September 13, 2019, the Court received a letter from Attica Correctional Facility stating that Mr. Nelson had been paroled on August 6, 2019, and his account with the New York State Department of Corrections and Community Supervision ("DOCCS") had been closed. ECF Dkt. No. 15.

¹ The Complaint names 30 defendants, however, in an order dated June 3, 2019, U.S. District Judge Michael Telesca (W.D.N.Y.) ordered that the eleventh claim against Defendants Miller and O'Connor, as it relates to allegations arising out of Sullivan Correctional Facility, be transferred to the Southern District of New York pursuant to Fed. R. Civ. P. 21 and 28 U.S.C. § 1404(a). ECF Dkt. No. 10. The action, as it relates to the remaining 28 defendants, is still pending in the W.D.N.Y. under No. 19 Civ. 6221.

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Moreover, a review of the companion docket in the Western District (No. 19 Civ. 6221), indicates that the Court mailed Plaintiff a Text Order dated August 2, 2019. *See* W.D.N.Y. No. 19. Civ. 6221: ECF Dkt. No. 12. That Order was mailed to the address so designated by Plaintiff, and was returned as undeliverable on August 8, 2019. *See* W.D.N.Y. ECF Dkt. No. 19 Civ. 6221, Nos. 12-14. The docket reflects no further attempts by Plaintiff to communicate with the Court in the Western District.

Based on Plaintiff's failure to update his address since his release from jail some months ago, and in the interest of both judicial economy and conserving the resources of this Office, we request that the Court issue an Order to Show Cause and stay, *sine die*, Defendants' time to respond to the Complaint.

We thank the Court for its consideration of this request.

Respectfully submitted,
/s/

Rebecca L. Johannesen
Assistant Attorney General
(212) 416-8373

cc: Jeffrey A. Nelson (By Mail)
DIN 98-A-4066
P.O. Box 149
Attica, New York 14011-0149

DECLARATION OF SERVICE

Rebecca L. Johannessen, pursuant to 28 U.S.C. §1746, declares under penalty of perjury as follows:

That I am over eighteen years of age and not a party to this action, and that on November 18, 2019, I served the foregoing letter dated November 18, 2019, upon the following person:

Jeffrey A. Nelson
DIN 98-A-4066
Attica Correctional Facility
P.O. Box 149
Attica, New York 14011-0149

by depositing a true and correct copy thereof, properly enclosed in a pre-paid wrapper, in a receptacle maintained by the United States Postal Service, directed to said person at the address within the State designated by him for that purpose in the Court's docket.

/s/ Rebecca L. Johannessen
Rebecca L. Johannessen
Assistant Attorney General

Executed on November 18, 2019